

SENATE BILL REPORT

SSB 5053

As Reported By Senate Committee On:
Government Operations, January 30, 1996

Title: An act relating to real estate disclosure.

Brief Description: Modifying real estate disclosure provisions.

Sponsors: Senate Committee on Government Operations (originally sponsored by Senators Haugen and Winsley).

Brief History:

Committee Activity: Government Operations: 1/24/95, 2/22/95 [DPS, DNP]; 1/30/96 [DP2S].

Passed Senate, 3/10/95, 46-0.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: That Second Substitute Senate Bill No. 5053 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Haugen, Chair; Sheldon, Vice Chair; Goings, Hale, Heavey, McCaslin and Winsley.

Staff: Rod McAulay (786-7754)

Background: In 1994, the Legislature enacted laws requiring sellers of residential real property to make an extensive list of disclosures concerning their property, which they are required to deliver to a buyer within five business days of acceptance of a written buy/sell agreement.

Certain transfers are exempt from the disclosure requirements, including transfers as a result of foreclosure, transfers by deed in lieu of foreclosure and transfers by a lienholder who acquired the property through foreclosure. Transfers by a real estate contract forfeiture are not exempt.

The disclosures must be made in the form prescribed by the statute. Among the required disclosures are whether there is any standing water or drainage problems on the property, whether there is any damage from floods, whether the property is in a designated flood plain and whether the property is designated a flood hazard zone.

If the seller fails to provide a disclosure statement as required, the buyer may rescind the transaction at any time up until the transfer has closed. No exception is made for this remedy, even if the disclosure statement is delivered late, but prior to closing.

Other than the right of rescission, the disclosure law does not establish any other remedy for the buyer. The seller and any real estate salesperson or broker involved in the transaction

are not liable for any error, inaccuracy, or omission in the required disclosure if they had no personal knowledge of the mistake. On the other hand, the disclosure law does not extinguish or impair any rights or remedies of the buyer under common law, statute or contract.

Summary of Second Substitute Bill: The residential real property sellers disclosure statutes are amended. Transfers resulting from a real estate contract forfeiture, or by a lienholder who acquires title through a real estate contract forfeiture, are exempt. Additional disclosures, not required by statute, may be included on the disclosure form used. The requirement that the seller disclose whether the property is in a designated flood hazard area is deleted. The seller must disclose if the property is subject to a sewer capacity charge. The right of a buyer to rescind the agreement to buy expires three business days after receipt of a late delivered disclosure statement. Sellers, real estate salespersons and brokers are not liable for any error, inaccuracy, or omission in a disclosure of which they have no actual knowledge. Various references and time limits are corrected to be consistent. It is clarified that the preservation of existing remedies does not override the limited remedy provided for violations of this law.

Second Substitute Bill Compared to Original Bill: The substitute strikes the January 1, 1996 effective date.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Basic legislation has worked well. This bill makes a number of technical changes which were missed on the initial bill.

Testimony Against: None.

Testified: Glen Hudson, Realtors Assn. (pro).